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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

JUSTIN RINGGOLD-LOCKHART,

Defendant and Appellant,

v.

MYER J. SANKARY, as Successor
Trustee, etc.,

Plaintiff and Respondent,

ANDRE-PAUL SUMMERS
CHAUSSIER, as Successor Trustee, etc.

Respondent.

B202858 c/ B203110 & B203814

(Los Angeles County
Super. Ct. No. PP005201)

APPEAL from orders of the Superior Court of Los Angeles County, Aviva K. Bobb, Judge. Dismissed.

Nina Ringgold for Defendant and Appellant.

Law Offices of Andrea Lynn Rice and Andrea Lynn Rice for Plaintiff and Respondent.

Oldman, Cooley, Sallus, Gold, Birnberg & Coleman, Marshal A. Oldman and Mary-Felicia Apanius for Respondent.

I. INTRODUCTION

This appeal arises out of proceedings concerning the Aubry Family Trust (the trust). Defendant, Justin Ringgold-Lockhart, purports to appeal from two orders. The first appeal is from an October 17, 2007 order authorizing the sale of trust real property to a third party. The second appeal is from an October 25, 2007 order granting relief from a stay on appeal (Prob. Code, § 1310) to permit the escrow to close. We conclude defendant has no standing to appeal. Accordingly, we dismiss the appeal.

II. DISCUSSION

Standing to appeal is a jurisdictional prerequisite. (*In re Frank L.* (2000) 81 Cal.App.4th 700, 703; *Marsh v. Mountain Zephyr, Inc.* (1996) 43 Cal.App.4th 289, 295; Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2007) ¶ 2:270, pp. 2-133 to 2-134 (rev. #1 2005).) Whether a party has standing is a question of law. (*Bilafer v. Bilafer* (2008) 161 Cal.App.4th 363, 368; *IBM Personal Pension Plan v. City and County of San Francisco* (2005) 131 Cal.App.4th 1291, 1299; but see *Berclain America Latina v. Baan Co.* (1999) 74 Cal.App.4th 401, 404-405 [applying substantial evidence standard of review].) If a party lacks standing, the appeal must be dismissed. (*Cloud v. Northrop Grumman Corp.* (1998) 67 Cal.App.4th 995, 1004-1011; *Siegal v. Superior Court* (1962) 203 Cal.App.2d 22, 27-28.)

Code of Civil Procedure section 902 states, “Any party aggrieved may appeal in the cases prescribed in this [title 13, appeals in civil actions].” This rule applies to appeals from probate court orders. (See, e.g., *Estate of Goulet* (1995) 10 Cal.4th 1074, 1079, 1081-1082; *Estate of Colton* (1912) 164 Cal. 1, 5; *Crook v. Contreras* (2002) 95 Cal.App.4th 1194, 1201; *Estate of Hawkins* (1987) 194 Cal.App.3d 102, 105; *Raczynski v. Judge* (1986) 186 Cal.App.3d 504, 509.) The Supreme Court has held, “[A]ny person

having an interest recognized by law in the subject matter of the judgment, which interest is injuriously affected by the judgment, is a party aggrieved and entitled to be heard upon appeal.” (*Estate of Colton, supra*, 164 Cal. at p. 5; see *In re Vincent M.* (2008) 161 Cal.App.4th 943, 952.) Further, our Supreme Court has held: “One is considered ‘aggrieved’ whose rights or interests are injuriously affected by the judgment. [Citations.] Appellant’s interest ‘must be immediate, pecuniary, and substantial and not nominal or a remote consequence of the judgment.’ [Citation.]” (*County of Alameda v. Carleson* (1971) 5 Cal.3d 730, 737; accord, *United Investors Life Ins. Co. v. Waddell & Reed, Inc.* (2005) 125 Cal.App.4th 1300, 1304; *Marsh v. Mountain Zephyr, Inc., supra*, 43 Cal.App.4th at p. 295.)

Defendant’s mother, Nina Ringgold, is a beneficiary of the trust. Pursuant to a settlement agreement approved by the probate court on December 16, 2005, Ms. Ringgold is entitled to a distribution of 8.25 percent of the trust assets. Defendant, on the other hand, has not shown that: he is a beneficiary of the trust (Prob. Code, § 24); the trust instrument provides for any donative transfer of property to him; he is the successor in interest to the recipient of a donative transfer (Prob. Code, § 24); he has any present or future interest in the trust property, vested or contingent (Prob. Code, § 24, subd. (c)); or he is a remainder beneficiary of the trust. Defendant has not demonstrated that his mother, Ms. Ringgold, is an income beneficiary of the trust—that is, a person entitled to receive income from trust property. (Black’s Law Dict. (8th ed. 2004) p. 165, col. 2.) Nor has he established that, as he asserts, the trust document authorizes the trustee to invade principal for the support of an income beneficiary’s issue.¹ Even if we

¹ Article VI, section 5 of the trust instrument states: “The Trustee may also, in the Trustee’s discretion, pay to or apply for the benefit of the issue of any then income beneficiary of this Trust Estate, including those who are age twenty-one (21) or older, such sums out of the principal of this Trust, as are reasonably required for their property support, health, maintenance and education in said beneficiary’s accustomed manner of

assume, for purposes of argument, that the principal invasion assertion is true, we would not find that defendant has standing. Defendant's interest in the trustee's sale of trust real property is not immediate, pecuniary, and substantial. He has no current interest in the trust assets and no existing right to any distribution from the trust. Defendant would be allowed a distribution only if: his mother is an income beneficiary of the trust; she requested a distribution to her son; and the successor trustee determined to exercise his discretion in that regard. A reversal of the appealed orders would be of no immediate pecuniary benefit to defendant. Therefore, he has no standing to challenge the orders on appeal. (*County of Alameda v. Carleson*, *supra*, 5 Cal.3d at p. 737; *United Investors Life Ins. Co. v. Waddell & Reed, Inc.*, *supra*, 125 Cal.App.4th at p. 1304; *Marsh v. Mountain Zephyr, Inc.*, *supra*, 43 Cal.App.4th at p. 295; see *Crook v. Contreras*, *supra*, 95 Cal.App.4th at p. 1201.) Defendant cannot appeal based on a purported error that injuriously affects only his mother's interests. (*Bratcher v. Buckner* (2001) 90 Cal.App.4th 1177, 1184; *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1128.)

living, provided said payment is not in discharge of a support obligation of the then income beneficiary under this subparagraph. The Trustee shall take into consideration, to the extent the Trustee deems advisable, any income or other resources of that issue, outside this Trust, known to the Trustee. Any payment or application of benefits to or for the issue of any then income beneficiary pursuant to this subparagraph shall be charged

III. DISPOSITION

The appeal is dismissed. Myer J. Sankary, as successor trustee of the Aubry Family Trust, and Andre-Paul Summers Chaussier, as Successor Trustee of the Summers Family Trust, are to recover all costs on appeal from defendant, Justin Ringgold-Lockhart.

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TURNER, P.J.

We concur:

ARMSTRONG, J.

FLIER, J.*

against the then income beneficiary's Trust share as a whole, rather than against the ultimate distributive share of the issue to whom or for whose benefit payment is made."

* Associate Justice of the Court of Appeal, Second Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.